

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

MICHAEL G. ROBINSON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent,

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No. 1:16CV72 SNLJ

MEMORANDUM AND ORDER

Before the Court is movant's pro se motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which indicates that movant believes he may be eligible for relief under the recent Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

On August 14, 2015, this Court entered an Administrative Order, styled *In Re: Johnson v. United States*. Pursuant to the Administrative Order, the Court will forward movant's § 2255 motion to the Office of the Public Defender for the Southern District of Illinois¹, and provide the Public Defender forty-five (45) days to review the said motion and movant's criminal history in order to determine whether movant has a potential argument for a sentence reduction under *Johnson*. In order to facilitate this process, the Court has issued a separate Administrative Order, authorizing the Clerk of Court and the United States Probation Office to provide to the Office of the Federal Public Defender and to the Office of the United States Attorney any records in their possession, including sealed records from the Court file regarding the movant's criminal history.

¹The Court believes movant has a potential conflict of interest with the Federal Public Defender's Office in the Eastern District of Missouri given his claims for ineffective assistance of counsel in this case. As such, the Court will vacate its prior Order referring this case to the Federal Public Defender's Office in the Eastern District of Missouri.

If the Public Defender's Office decides movant has a potential argument under *Johnson*, the Public Defender, no later than forty-five (45) days of the date of this Order, should file either an amended motion to vacate under § 2255 in this case, or a request in the Court of Appeals for leave to bring a successive § 2255 motion, as required by 28 U.S.C. § 2244(b)(3).

Accordingly,

IT IS HEREBY ORDERED that the Order dated April 7, 2016 referring movant's motion to vacate to the Office of the Public Defender for the Eastern District of Missouri is **VACATED**.

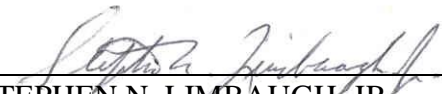
IT IS FURTHER ORDERED that the Clerk of Court is directed to forward a copy of movant's § 2255 motion to the Office of the Public Defender for the Southern District of Illinois.

IT IS FURTHER ORDERED that the Clerk should enter Federal Public Defender Phillip J. Kavanaugh as counsel for movant in this action so that the Office of the Federal Public Defender in the Southern District of Illinois shall receive notice of all filings in this case.

IT IS FURTHER ORDERED that the Public Defender shall notify this Court, within forty-five (45) days of the date of this Memorandum and Order, whether it will be pursuing movant's arguments under *Johnson*, either by filing a written notice in this action of their intent not to represent movant, or by filing an amended motion to vacate, brought pursuant to 28 U.S.C. § 2255, also in this action, or a request in the Court of Appeals for leave to bring a successive § 2255 motion, as required by 28 U.S.C. § 2244(b)(3).

IT IS FURTHER ORDERED that the Court shall hold this matter in abeyance for forty-five (45) days.

Dated this 25th day of April, 2016.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE